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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/604,474	06/27/2000	Wordell Nelson	LD 11114	5090
7590 12/23/2003			EXAMINER	
Timothy E Nauman Esq Fay Sharpe Fagan Minnich & McKee LLP 7th Floor 1100 Superior Avenue Cleveland, OH 44114-2518			TON, ANABEL	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 12/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/604,474

Applicant(s)

NELSON ET AL.

Examiner

Anabel M Ton

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5,7-12,14-17 and 20-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,7-12,14-17 and 20-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Allowable Subject Matter

1. The indicated allowability of claims 1-5,7-11 is withdrawn.

Claim Rejections - 35 USC § 103

2. Claim 1,3,4,5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sharrah et al (6,250,771) and further in view of McDermott (6,024,471).
3. Sharrah discloses a housing (20), a least one LED within housing (286), a reflector extending from an end of the housing for focusing and dispersing the LED beam to a desired light contour (200,390, col. 3 lines 5-26, focusing ring aids in moving reflector 300 to focus emitted light), the housing encloses a series of batteries, the reflector is selectively adjustable (col. 3 lines 5-26). Sharrah discloses the claimed invention except for the recitation of an adjustable switch coupled to the variable resistor. Mc Dermott discloses an adjustable switch coupled to a variable resistor for controlling the level optical output of flashlight (50), being a rheostat having continuous variable control. It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the adjustable switch of McDermott in the flashlight of Sharrah for the purpose of providing the flashlight with a selective optical output since McDermott teaches that the variable switch is desirable for controlling and selecting a desired light intensity. With regards to claim 5, in the device of McDermott, the reflector being fixed and the LED movable is arbitrary in that if one were to hold the

reflector adjustment device and move the body of the flashlight in desired rotatable direction the LED would move with respect to the reflector.

4. Claims 2, 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sharrah in further view of McDermott as applied to claim 1 above, and further in view of Lebens.

5. Sharrah and McDermott teach the invention as stated above but do not teach a plurality of LEDs arranged concentrically around a single LED. Lebens teaches a flashlight with a plurality of LEDs arranged concentrically around a single LED. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have a multiple amount of LEDs in a flashlight device as taught by Sharrah and McDermott since as taught by Lebens, such a configuration for use in a flashlight is useful so as to provide the user with a desired color output from the multitude of LEDs. Lebens discloses a switch to turn on and off a select number of at least one LED (col. 4 lines 24-45),

6. Claims 12, 14-17 and 20-23 rejected under 35 U.S.C. 103(a) as being unpatentable over Lebens and further in view of Sharrah.

7. Lebens discloses a housing having at least two light emitting diodes mounted within the housing generating a mechanically adjustable LED beam, an adjustable switch coupled to a variable resistor, the switch is adapted to selectively turn on and off any select number of the at least 2 LEDs (Cols 3-4 lines 60-67 and 24-45 respectively). Lebens does not disclose a reflector extending from the housing.

McDermott discloses a reflector extending from the housing for focusing and dispersing light. It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement an adjustable reflector in the device of Lebens since as taught by McDermott, such a feature is useful and desirable for adjusting the emitted light output from the flashlight as desired by the user.

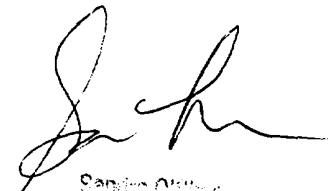
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anabel M Ton whose telephone number is (703) 305-1084. The examiner can normally be reached on 08:00-16:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (703) 305-4939. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9318.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Anabel M Ton
Examiner
Art Unit 2875

AMT



Sandra O'Shea
Supervisory Patent Examiner
Technology Center